

FILED 09 JUL 15 11:37 USDC OR

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

TERRIE CASEY,

Plaintiff, CV No. 08-423-CL

v.

MICHAEL J. ASTRUE, Commissioner,
Social Security Administration,

ORDER ON
REPORT AND RECOMMENDATION

Defendant.

Plaintiff Terrie Casey brings this action for Social Security Disability Insurance (SSDI) benefits against Defendant Michael J. Astrue, Commissioner, Social Security Administration.

On June 5, 2009, Magistrate Judge Mark D. Clark filed his Report and Recommendation (docket #19) ("R&R"). The matter is now before me pursuant to 28 U.S.C. § 636(b)(B) and Fed.R.Civ.P. 72(b). Although no objections were timely filed, this court still must review the legal principles de novo. See Lorin Corp. v. Goto & Co. Ltd., 700 F.2d 1202, 1206 (9th Cir. 1983) ("absence of objection does not relieve district court of its obligation to decide for itself whether the Magistrate's report is correct").

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I find no error. The Magistrate Judge's Report and Recommendation (docket #19) is adopted.

Therefore, the decision of the Commissioner is reversed and the matter remanded for further administrative proceedings pursuant to sentence four of 42 U.S.C. §405(g). The ALJ shall:

- (1) complete a proper evaluation of Plaintiff's impairments of cervical radiculopathy and headaches. If the ALJ rejects the treating physicians' opinions, she shall do so properly by giving clear and convincing reasons. The ALJ shall consider the limiting effects of Plaintiff's severe and non-severe limitations in creating the RFC.
- (2) credit the Plaintiff's testimony or provide clear and convincing reasons to discredit it and make specific findings.
- (3) credit Mr. Casey's lay witness testimony or give specific and legitimate reasons germane to him to disregard it.
- (4) revise the Plaintiff's RFC and hypothetical for the VE to include all of Plaintiff's limitations, consistent with new determinations of impairments. The ALJ shall

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also clarify whether Plaintiff is able to perform frequent fingering.

DATED this 15 day of July, 2009.


OWEN M. PANNER
United States District Judge

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